IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

Crl.Rev.Pet.No. 2 of 1999()

C.C NO.416/1996 ON THE FILE OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS, CHAVAKKAD.

REVN. PETITIONER:

NADIRSHA,
S/O.MUHAMMEDALY,
THIRUVATHRA.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS:
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1. SIHAB, S/O.CHINGANATH,
ABDULLAHKUTTY, THIRUVATHRA BEACH.

2. MANAF, S/O.KUNNATH MUHAMMEDALY,
THIRUVATHRA BEACH.

3. MAMMADU, S/O.NAINAR MOIDEEN,
THIRUVATHRA BEACH.

4. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.RAJIT
PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.R.P.No.2 of 1999-A

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Dated this the 4th day of September, 2007

O R D E R

The revision petitioner is the de facto complainant in C.C.No.416/1996 in the file of the Judicial Magistrate of the First Class, Chavakkad, with respect to the offences under Sections 341, 324 read with Section 34 of the Indian Penal Code, in which the accused stood acquitted.

2. The prosecution case is that on 18/08/1996 at about 11.30 a.m while PW.1, the injured was riding a scooter and when he reached Saifullah road junction, the first accused stopped him and the second accused beat him on his head with an iron rod and when he fell down, the third accused beat him on his left hand also with an iron rod. It is the case that he was immediately admitted in Tahani Hospital, Guruvayoor.

3. The evidence adduced consisted of the testimony of PWs.1 to 8 and Exts.P1 to P7 and MOs.I and II. The defence has examined DWs.1 and 2. DW.1 is the second accused. The court below acquitted the

accused mainly on the ground that in Ext.P2 wound certificate, the doctor has recorded that while riding a bicycle, he was hit by steel pipes. In the F.I.S as well as in the evidence, the version is that he was riding the scooter and he was beaten by iron rods.

On a perusal of the evidence adduced, I find that the matter requires reconsideration. The order of acquittal of the court below is set aside. The court below is directed to dispose of the matter afresh after hearing the prosecution and the accused, and of course, untrammelled by any observations contained herein. The matter will stand posted before the court below on 29/10/2007.

The criminal revision petition is allowed as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.2 of 1999-A

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O R D E R

4th September, 2007